

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

Bryan Mornyngstarr Bernard

v.

Civil No. 12-cv-509-JL

Valley Street Jail

**REPORT AND RECOMMENDATION**

This case was originally filed in the United States District Court for the District of Arizona on September 18, 2012. See Doc. No. 1. On October 26, 2012, that court directed plaintiff to pay his filing fee or complete an in forma pauperis application within thirty days. See Doc. No. 3. Bernard moved for in forma pauperis status in the District of Arizona on October 30, 2012. See Doc. Nos. 4 and 6. While Bernard's motion for in forma pauperis was pending, Bernard's case was transferred to this district court. See Doc. No. 7.

On December 26, 2012, this court issued two orders in this matter. The first directed plaintiff to refile or renew any outstanding motions within thirty days, and advised plaintiff that motions he had filed in the District of Arizona would not be considered unless he refiled them in this court. See Doc. No. 9. The second order directed Bernard to pay his filing fee

or complete an in forma pauperis application within sixty days.  
See Doc. No. 10.

Bernard has not responded to those orders, paid his filing fee, or moved for in forma pauperis status in this court. Accordingly, the complaint should be dismissed without prejudice. See 28 U.S.C. § 1914 (requiring payment of filing fee); id. § 1915(a)(2) (procedures for granting prisoners in forma pauperis status); see also United States District Court for the District of New Hampshire Local Rule 4.4.

### **Conclusion**

For the foregoing reasons, the court recommends this action be dismissed without prejudice. Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011), cert. denied, 132 S. Ct. 1045 (2012); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by

district court; issues not preserved by such objection are precluded on appeal).



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Landya McCafferty  
United States Magistrate Judge

April 10, 2013

cc: Bryan Mornyngstarr Bernard, pro se

LBM:jba